

By: Zaffirini, Campbell

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the offense of hazing.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.151(6), Education Code, is amended to read as follows:

(6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student~~[, that endangers the mental or physical health or safety of a student]~~ for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization if the act:

(A) is~~[-. The term includes:~~

~~[(A)]~~ any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(B) involves ~~[any type of physical activity, such as]~~ sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(C) involves ~~[any activity involving]~~ consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by Paragraph (F), that

1 subjects the student to an unreasonable risk of harm or that  
2 adversely affects the mental or physical health or safety of the  
3 student;

4 (D) is any activity that:

5 (i) a reasonable person would believe  
6 intimidates or threatens the student with ostracism, ~~[that]~~  
7 subjects the student to extreme mental stress, shame, or  
8 humiliation, ~~[that]~~ adversely affects the mental health or dignity  
9 of the student, or discourages the student from entering or  
10 remaining registered in an educational institution; ~~[7]~~ or

11 (ii) ~~[that]~~ may reasonably be expected to  
12 cause the ~~[a]~~ student to leave the organization or the institution  
13 rather than submit to the activity ~~[acts described in this~~  
14 ~~subdivision]~~; ~~[and]~~

15 (E) is any activity that induces, causes, or  
16 requires the student to perform a duty or task that involves a  
17 violation of the Penal Code; or

18 (F) involves coercing, as defined by Section  
19 1.07, Penal Code, the student to consume an alcoholic beverage,  
20 liquor, or drug.

21 SECTION 2. Section 37.155, Education Code, is amended to  
22 read as follows:

23 Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY  
24 AVAILABLE. (a) In the prosecution of an offense under this  
25 subchapter, the court may grant immunity from prosecution for the  
26 offense to each person who is subpoenaed to testify for the  
27 prosecution and who does testify for the prosecution.

1        (b) Any person who voluntarily reports ~~[reporting]~~ a  
2 specific hazing incident involving a student in an educational  
3 institution to the dean of students or other appropriate official  
4 of the institution is immune from civil or criminal liability that  
5 might otherwise be incurred or imposed as a result of the reported  
6 hazing incident if the person:

7            (1) reports the incident before being contacted by the  
8 institution concerning the incident or otherwise being included in  
9 the institution's investigation of the incident; and

10           (2) as determined by the dean of students or other  
11 appropriate official of the institution designated by the  
12 institution, cooperates in good faith throughout any institutional  
13 process regarding the incident ~~[report]~~.

14        (c) Immunity under Subsection (b) extends to participation  
15 in any judicial proceeding resulting from the report.

16        (d) A person is not immune under Subsection (b) if the  
17 person:

18            (1) reports the person's own act of hazing; or

19            (2) reports an incident of hazing ~~[reporting]~~ in bad  
20 faith or with malice ~~[is not protected by this section]~~.

21        SECTION 3. Subchapter F, Chapter 37, Education Code, is  
22 amended by adding Section 37.158 to read as follows:

23        Sec. 37.158. VENUE. (a) In this section, "prosecuting  
24 attorney" means a county attorney, district attorney, or criminal  
25 district attorney.

26        (b) An offense under this subchapter may be prosecuted:

27            (1) in any county in which the offense may be

1 prosecuted under other law; or

2 (2) if the consent required by Subsection (c) is  
3 provided, in a county, other than a county described by Subdivision  
4 (1), in which is located the educational institution campus at  
5 which a victim of the offense is enrolled.

6 (c) An offense under this subchapter may be prosecuted in a  
7 county described by Subsection (b)(2) only with the written consent  
8 of a prosecuting attorney of a county described by Subsection  
9 (b)(1) who has authority to prosecute an offense under this  
10 subchapter.

11 SECTION 4. Section 51.936, Education Code, is amended by  
12 amending Subsection (c) and adding Subsections (c-1) and (c-2) to  
13 read as follows:

14 (c) Not later than the 14th day before the first class day of  
15 each fall or spring semester, each [Each] postsecondary educational  
16 institution shall distribute to each student enrolled at the  
17 institution [during the first three weeks of each semester]:

18 (1) a summary of the provisions of Subchapter F,  
19 Chapter 37; and

20 (2) a copy of, or an electronic link to a copy of, the  
21 report required under Subsection (c-1) [list of organizations that  
22 have been disciplined for hazing or convicted for hazing on or off  
23 the campus of the institution during the preceding three years].

24 (c-1) Each postsecondary educational institution shall  
25 develop and post in a prominent location on the institution's  
26 Internet website a report on hazing committed by an organization on  
27 or off campus. The report:

1           (1) must include information regarding each  
2 disciplinary action taken by the institution against an  
3 organization for hazing, and each conviction of hazing under  
4 Section 37.153 by an organization at the institution, during the  
5 three years preceding the date on which the report is issued or  
6 updated, including:

7                   (A) the name of the organization disciplined or  
8 convicted;

9                   (B) the date on which the incident occurred or  
10 the citation was issued, if applicable;

11                   (C) the date on which the institution's  
12 investigation into the incident, if any, was initiated;

13                   (D) a general description of:

14                           (i) the incident;

15                           (ii) the violations of the institution's  
16 code of conduct or the criminal charges, as applicable;

17                           (iii) the findings of the institution or  
18 court; and

19                           (iv) any sanctions imposed by the  
20 institution, or any fines imposed by the court, on the  
21 organization; and

22                   (E) the date on which the institution's  
23 disciplinary process was resolved or on which the conviction became  
24 final;

25           (2) must be updated to include information regarding  
26 each disciplinary process or conviction not later than the 30th day  
27 after the date on which the disciplinary process is resolved or the

1 conviction becomes final, as applicable; and

2 (3) may not include personally identifiable student  
3 information and must comply with the Family Educational Rights and  
4 Privacy Act of 1974 (20 U.S.C. Section 1232g).

5 (c-2) Each postsecondary educational institution shall  
6 provide to each student who attends the institution's student  
7 orientation a notice regarding the nature and availability of the  
8 report required under Subsection (c-1), including the report's  
9 Internet website address.

10 SECTION 5. The change in law made by this Act applies only  
11 to an offense committed on or after the effective date of this Act.  
12 An offense committed before the effective date of this Act is  
13 governed by the law in effect when the offense was committed, and  
14 the former law is continued in effect for that purpose. For  
15 purposes of this section, an offense was committed before the  
16 effective date of this Act if any element of the offense was  
17 committed before that date.

18 SECTION 6. Section 37.155, Education Code, as amended by  
19 this Act, applies only to a civil cause of action that accrues on or  
20 after the effective date of this Act. An action that accrued before  
21 the effective date of this Act is governed by the law in effect at  
22 the time the action accrued, and that law is continued in effect for  
23 that purpose.

24 SECTION 7. Section 51.936(c), Education Code, as amended by  
25 this Act, and Section 51.936(c-2), Education Code, as added by this  
26 Act, apply beginning with the 2020 spring semester.

27 SECTION 8. Not later than January 1, 2020, each

1 postsecondary educational institution shall develop and post on the  
2 institution's Internet website the report required under Section  
3 [51.936\(c-1\)](#), Education Code, as added by this Act.

4 SECTION 9. This Act takes effect September 1, 2019.